

August 2, 2017

Mr. John Canoles
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

Re: Diageo Americas Supply, Inc.-Guinness Brewery
Forest Conservation Variance
Tracking # 01-17-2511

Dear Mr. Canoles:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability (EPS), Title 6 Forest Conservation was received by this Department on July 11, 2017. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 14.2-acre limit of disturbance rather than the entire 52.0-acre commercial/industrial property. The proposed redevelopment activity includes a brewery, barrel house, and public tasting room. The proposed work will occur on previously developed areas and will not impact any forest, streams, or wetlands.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to make improvements to a developed commercial/industrial property that existed prior to the effective date of the Forest Conservation Law. These improvements are necessary to expand the facility and keep the business competitive. However, full application of the law to the entire property would not deprive the applicant of beneficial use of the property, as it would not affect the usable land, only the cost of complying with the Forest Conservation Law. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due to unique circumstances associated with the expense of full compliance with the law and the need to expand the facility rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The proposed brewery and ancillary uses will not alter the essential character of the commercially developed neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. We have determined that no wetlands, streams, floodplains, or Forest Buffers would be impacted by the proposed redevelopment. Furthermore, a Forest Buffer Easement will be recorded to protect the stream system along the periphery of the property. Finally in this regard, water quality management of storm runoff will be addressed by meeting the County's Storm Water Management Law. Therefore, we find that granting of this variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any action to create a condition or circumstance necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Reducing the afforestation obligation based on limit of disturbance for the proposed brewery operation would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to forest or water quality would result from the proposed redevelopment. Therefore, this criterion has been met

Based on our review, this Department finds that all required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. The project's 2.2-acre afforestation requirement resulting from this variance shall be met either by purchasing credit at an EPS-approved forest planting

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bank or by paying a fee-in-lieu of \$0.50 per square foot (\$47,916.00) to Baltimore County. A bank authorization letter is enclosed for your use. Prior to issuance of any permits, either the signed bank letter shall be returned to EPS indicating that planting bank credit has been purchased or the fee paid to EPS. Checks shall be made payable to Baltimore County.

2. The following note must be on all plans for this project:

A variance was granted to the Forest Conservation Law by Baltimore County EPS on August 2, 2017 to allow forest conservation requirements to be based on the 14.2-acre limit of disturbance for the Guinness Brewery rather than the entire 52-acre site. Conditions were placed on this approval to ensure compliance with the spirit and intent of the Forest Conservation Law.

3. The final forest conservation plan must reflect this variance decision and EPS staff comments.
4. This variance approval does not exempt future development activities at this site from compliance with Baltimore County's Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the property owner sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina
Director

VJG/ges

Enclosure

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c. Mr. Steve Warfield, Matis Warfield, Inc.

I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

Property Owner's Signature

Date

Property Owner's Printed Name